

64th MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION

Thursday, December 16, 2004

Amended Minutes

Chairman Salamon called the meeting to order at 1:10 p.m.

Commissioners present: Ginsburg, Moffit, Nicolay, Pollak, Risher, Row, and Toulson
(Commissioner Pollak arrived during the consideration of Agenda Item 2.)

ITEM 1.

Approval of Minutes

Commissioner Robert Moffit made a motion to approve the Minutes of the November, 2004 meeting of the Commission, which was seconded by Commissioner Clifton Toulson, Jr., and unanimously approved.

Commissioner Constance Row made a motion to amend the Minutes of the December 1, 2004 meeting held via teleconference, which was seconded by Commissioner Larry Ginsburg. Following discussion, the Commissioners voted on the proposed amendment, with Commissioners Row and Ginsburg in favor of adoption, and Commissioners Robert Moffit, Robert E. Nicolay, Debra Herring Risher, Clifton Toulson, Jr., and the Chairman, Stephen J. Salamon, voting against adoption of the proposed amendment. Because seven of the Commission members voting did not concur on taking action on the minutes, approval of the December 1, 2004 Minutes was tabled.

Commissioner Row made a motion to amend the Minutes of the December 3, 2004 meeting held via teleconference, which was seconded by Commissioner Ginsburg. Following discussion, the Commissioners voted on the proposed amendment, with Commissioners Row, Ginsburg, and Nicolay voting in favor of adoption, and Commissioners Moffit, Risher, Toulson, and the Chairman voting against adoption of the proposed amendment. Because seven of the Commission members voting did not concur on taking action on the minutes, approval of the December 3, 2004 Minutes was tabled.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

The Chairman said that he will announce the make-up of the Task Force to study the Certificate of Need process early next year. The membership of the Research Proposal Review Committee, which will review any proposal for a clinical trial involving a waiver from the current health planning policy requiring that elective angioplasty and open heart surgery be co-located, will be announced at the January 27th meeting. The Chairman emphasized that the Commission has NOT, to date, received a research proposal.

Enrique Martinez-Vidal, Deputy Director of Performance and Benefits, announced that the Commissioners had been given an advance copy of *Maryland Commercial HMO and POS Plans: Policy Issues, 8th Edition*. He requested that any suggested changes from the Commissioners be made prior to the report being printed within the next week. Copies of the *Update of Activities* were available on the documents table and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

PROPOSED PERMANENT REGULATIONS: COMAR 10.25.02 — User Fee Assessment of Health Care Practitioners

The Chairman announced that Agenda items #3 and #4 involved changes to the regulations governing user fee assessments on health care practitioners as well as payers, hospitals, and nursing homes. Bridget Zombro, Associate Deputy Director, and Nancy Beckman, an Administrator in her Division, presented a summary of the proposed changes. The draft regulatory changes had been sent to the assessed groups and had been posted on the Commission's website for informal public comment. No comments were received during this informal comment period. Commissioner Row made a motion that the Commission approve the changes to the regulations, which was seconded by Commissioner Risher, and unanimously approved.

PROPOSED PERMANENT REGULATIONS: COMAR 10.25.02 — User Fee Assessment of Health Care Practitioners is hereby APPROVED.

ITEM 4.

PROPOSED PERMANENT REGULATIONS: COMAR 10.25.03 — User Fee Assessment of Payers, Hospitals, and Nursing Homes

The proposed changes had been sent to the assessed groups and had been posted on the Commission's website for informal public comment. No public comment was received. Commissioner Row made a motion that the Commission approve the changes to the regulations, which was seconded by Commissioner Risher, and unanimously approved.

PROPOSED PERMANENT REGULATIONS: COMAR 10.25.03 — User Fee Assessment of Payers, Hospitals, and Nursing Homes is hereby APPROVED.

ITEM 5.

PROPOSED PERMANENT AND EMERGENCY REGULATIONS: COMAR 31.11.12 — Limited Health Benefit Plan

The Chairman said that the next agenda item would be consideration of a proposed Limited Health Benefit Plan (LBP). Mr. Martinez-Vidal presented a summary of the proposed regulations required by SB 570 (enacted by the General Assembly in 2004) providing a LBP that will be available to certain small employers beginning July 1, 2005. Commission staff, in conjunction with MAMSI, CareFirst Blue Cross Blue Shield, and Mercer Human Resource Consulting, the Commission's actuarial consultant, developed proposals for a Capped Benefit Limited Benefit Plan and for a Credit Fund Limited Benefit Plan. The new law requires that the LBP be offered to a small employer who: (1) has not provided the Standard Plan during the twelve-month period preceding the date of application or, if the small employer has existed for less than twelve months, from the date the small employer commenced its business; and (2) has employees in the employer's group with an average annual wage that does not exceed seventy-five percent of the average annual wage in the state. Commissioner Row made a motion that the Commission approve promulgation as proposed permanent and emergency regulations, which was seconded by Commissioner Nicolay, and unanimously approved.

PROPOSED PERMANENT AND EMERGENCY REGULATIONS: COMAR 31.11.12 — Limited Health Benefit Plan is hereby APPROVED.

ITEM 6.

FINAL ACTION: HMO Measures for the 2005 and 2006 Consumer Guides

The Chairman said that the staff recommendations for the behavioral health, and outpatient/after-hours urgent care/emergency department utilization Health Plan Employer Data and Information Set (HEDIS) measures to be collected during calendar year 2005 and 2006 were released for public comment following the November meeting. Joyce Burton, Chief of HMO Quality and Performance, said that modifications in response to the comments received had been incorporated into the recommendations. Following discussion, Commissioner Andrew N. Pollak made a motion to modify the reporting requirement for "Use of Imaging Studies for Low Back Pain" and rewrite the data collection measure by changing the word "absence" to the word "presence" in line three, which was seconded by Commissioner Moffit, and unanimously approved.

Commissioner Nicolay made a motion to approve, as amended, the HMO Measures for the 2005 and 2006 Consumer Guides, which was seconded by Commissioner Moffit. Commissioner Row added a statement that a process to collect information regarding C-Section and Vaginal Birth After Cesarean (VBAC) rates be incorporated into the Commission's data collection activities. The motion was unanimously approved.

FINAL ACTION: HMO Measures for the 2005 and 2006 Consumer Guides are hereby APPROVED.

ITEM 7.

FINAL ACTION: Hospital Measures for the 2005 and 2006 Consumer Guides

Jean Moody-Williams, Chief of Facility Quality and Performance, presented the next agenda item. She said that the Commission has the responsibility to coordinate the development of consumer reports that provide information useful for comparison of the quality of care among hospitals. Staff recommendations on expanding the Guide to include information on hospital associated infections including the "Surgical Infection Prevention" process measure set developed

by the Centers for Medicare and Medicaid Services (CMS) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) were released for public comment following the November meeting. Some modifications were incorporated into the final recommendations as a result of comments received from five hospitals and the Maryland Hospital Association. In response to a question from Commissioner Pollak, staff reviewed plans to adjust for surveillance bias in the infection rate reporting system. Commissioner Row made a motion that the measures be approved, which was seconded by Commissioner Toulson, and unanimously approved.

ACTION: Proposed New Hospital Measures for the 2005 and 2006 Consumer Guides are hereby APPROVED.

ITEM 8.

ACTION: CERTIFICATE OF NEED

Mercy Medical Center, Patient Information Systems, Staff Recommendation, Docket No. 04-24-2140

Deborah Rajca, Health Policy Analyst, presented the Staff Recommendation. Ms. Rajca said that Mercy Medical Center, an acute general hospital located in Baltimore, Maryland, sought Certificate of Need approval to implement four comprehensive patient care information systems: (1) a Computerized Physician Order Entry System; (2) a Bedside Medication Verification System; (3) a Laboratory Information System; and (4) a Computerized Patient Record System, that will support clinical care delivery. The total cost of the project is approximately \$5,720,000, and Mercy plans to fund the project by cash. Based on its review and analysis of the Certificate of Need application, Staff determined that the capital project proposed by Mercy complies with the Commission's State Health Plan for Facilities and Services and general Certificate of Need review criteria. Accordingly, Staff recommended that the Commission **APPROVE** Mercy's application for Certificate of Need. Ms. Rajca introduced Mercy Medical Center staff members: Sam Moskowitz, Executive Vice President; James Stalder, Senior Vice President and Chief Information Officer; Justin Deibel, Vice President for Clinical Economics; and Jack Tranter, counsel, to the Commissioners. Following discussion among the Commissioners and Mr. Moskowitz regarding the hospital's financial status, many of the Commissioners commended the Mercy Medical Center staff for the project. Commissioner Row made a motion that the Commission approve the Certificate of Need, which was seconded by Commissioner Ginsburg, and unanimously approved.

ACTION: Mercy Medical Center, Application for Certificate of Need for Patient Information Systems, Docket No. 04-24-2140, is hereby APPROVED.

ITEM 9.

PRESENTATION: *Statistical Brief: Cardiac Surgery and Percutaneous Coronary Intervention Services*

Dolores Sands, Chief of Specialized Health Care Services, briefed the Commission on recent trends in the utilization of cardiac surgery and percutaneous coronary intervention (PCI) services for hospitals in Maryland and Washington, D.C. The *Statistical Brief* includes information on adult open heart surgery caseloads (2001-2003), the proportion of coronary artery bypass graft cases performed off-pump (2002-2003), adult PCI cases (2001-2003), and the proportion of PCI

cases using drug eluting stents (July-December 2003). The *Statistical Brief* is available on the Commission's website at: http://www.mhcc.state.md.us/new_items.htm.

ITEM 10.

PRESENTATION: *EDI Progress Report: Summary of Findings*

Dr. David Sharp, Chief of EDI Programs and Payer Information Systems, and Irene Battalen, Health Policy Analyst, presented a summary of the 2004 Progress Report. The Commission has a mandate to promote electronic data interchange (EDI) in Maryland and does so through its provider educational initiatives, data collection activities, and Electronic Health Network certification program. The 2004 EDI Progress Report focuses on practitioner and hospital EDI claim shares and includes health care transactions reported during the 2003 calendar year by government (Medicare and Medicaid) and private payers. The report is available on the Commission's website at: http://www.mhcc.state.md.us/edi/ediprogess/_ediprogess.htm.

ITEM 11.

PRESENTATION: *Study of the Affordability of Health Insurance in Maryland (Required Under SB 131/HB 845)*

Kristin Helfer-Koester, Chief of Legislative and Special Projects, and Mr. Martinez-Vidal presented a summary of the report. Ms. Helfer-Koester said that during the 2004 session, the Maryland General Assembly passed HB 845 and SB 131 which requires the Maryland Insurance Administration (MIA) and the Maryland Health Care Commission (MHCC) to study issues related to the affordability of health insurance in Maryland. A preliminary report is due to the legislature in January 2005 and a final report in January 2006.

The bills required the MIA, in consultation with the MHCC, to study: (1) the number, and the regulatory requirements, including the rating of health status, related to health insurance carriers in Delaware, the District of Columbia, Pennsylvania, Virginia, and West Virginia; and (2) the role of tax-deferred health savings accounts and other models of offering health insurance designed to increase consumer awareness of the cost of health care services.

The MHCC is required, on its own, to study: (1) the factors that contribute to increases in health care costs in Maryland, including utilization of health care services; (2) ways to educate consumers about health care issues and promote personal accountability in health care; (3) ways in which disease management programs can promote the appropriate management of chronic diseases; (4) ways to encourage strategies to purchase health care that focus on quality, patient safety, and wellness; (5) ways to facilitate a more effective and efficient health care delivery system, including improved information technology and evidence-based medicine; (6) innovative programs in other states designed to encourage the appropriate use of health care services; and (7) ways to make health insurance more understandable to both employers and consumers.

Preliminary recommendations included:

- Transparency of full cost information to the consumer (FL legislation)
- Emergency Department Diversion Plan (FL legislation) – ‘emergency hotline’ and hospital ‘fast track’ program.
- Financial incentives to providers – for cost effective quality care (i.e., disease management programs)
- Redesign of Small Employer Website – (CA)

- Listing of Additional Prescription Drugs on Maryland OAG Website

In the coming year, MHCC will conduct a detailed analysis of:

- Maryland health care costs (including analysis undertaken by other states - IN & ME)
- Evidence-based medicine
- Wellness programs with insurance premium rebates
- Pay for performance programs
- Provider 'tiering'
- Results of MIA analysis

Final approval for delivery of this report to the General Assembly will be requested at the January 11, 2005 meeting of the Commission to be held via conference call.

ITEM 12.

PRESENTATION: *Annual Mandated Health Insurance Services Evaluation*

Mr. Martinez-Vidal and Bruce Kangisser, Mercer Human Resource Consulting (Mercer), presented a summary of the draft *Annual Mandated Health Insurance Services Evaluation*. Mr. Martinez-Vidal said that MHCC is required to analyze the costs of all current mandated services in Maryland and assess the financial, social, and medical impact of proposed mandates. Mercer analyzed the potential costs of mandates for "wrap around" mental health services for children, smoking cessation programs, and air ambulance transport. Final approval for delivery of this report to the General Assembly will be requested at the January 11, 2005 Commission meeting held via teleconference.

ITEM 13.

Hearing and Meeting Schedule

Chairman Salamon announced that the Commission would meet twice in January: on Tuesday, January 11, 2005 at 10:00 a.m. via teleconference call; and on Thursday, January 27, 2005 at 1:00 p.m., at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland.

ITEM 14.

Adjournment

There being no further business, the meeting was adjourned at 4:26 p.m. upon motion of Commissioner Row, which was seconded by Commissioner Risher, and unanimously approved by the Commissioners.